IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1031 of 2003
in
SPECIAL CIVIL APPLICATION No 5686 of 2003
with
CIVIL APPLICATION No 6547 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI
and
HON'BLE MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DISTRICT EDUCATION OFFICER
Versus
JIGNA BHAGWANJIBHAI SADARIYA

Appearance:
1. LETTERS PATENT APPEAL No. 1031 of 2003
MR AJ DESAI, AGP for Appellant
MR DC SEJPAL for the Respondent

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI
and
HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 16/12/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE R.K.ABICHANDANI)

#. The appellant challenges the order of the learned Single Judge directing the appellant to correct the birth date of the respondent and to show the same as 4.12.78 instead of 4.6.78 in all the records maintained by the appellant and also to direct the concerned Secondary and Higher Secondary Schools where the respondent had studied to make such corrections.

#. Relying upon the decision of the Division Bench of this Court in Letters Patent Appeal No. 699 of 2003, rendered on 11th August, 2003 (Coram: Mr. Justice J.M. Panchal & Mr. Justice A.M. Kapadia), the learned Assistant Government Pleader contended that in view of Regulation-12A of the Gujarat Secondary Education Regulations, 1974, the school record could not have been corrected after the respondent had left the school and the only remedy for the respondent was to approach the learned Magistrate, First Class, having jurisdiction in the matter as provided under Section 13(3) of the Registration of Births & Deaths Act, 1969.

#. The Division Bench holding that the record could not be corrected after the student had left the school in view of the provisions of Regulation-12A of the said Regulations, had confirmed the order of the learned Single Judge rejecting the petition.

#. In the present case, however, since the decision of the Division Bench was subsequently given, there was no occasion for the learned Single Judge to follow the same and, therefore, a direction was issued for correcting the school record by showing the birth date of the respondent as 4.12.78 instead of 4.6.78.

#. We are told that the respondent has married and she requires the correct date to be shown in her school leaving certificate so that she can get passport and visa for joining her husband in the United States.

#. There is no dispute over the fact that once necessary order is obtained from the concerned Judicial Magistrate on the basis of such order, change can be effected in the relevant records including the school record on the basis of which school leaving certificate is issued. The learned counsel for the respondent states that the respondent is prepared to approach the concerned Judicial Magistrate for getting necessary orders under Section 13 (3) of the said Act and then on the basis of such order, approach the appellants and the concerned school authorities in the matter for getting corrected the

school leaving certificate on the basis of the order of the learned Magistrate.

#. We, therefore, direct that the relevant records maintained by the appellants including the school records will be duly corrected on the basis of the order of the concerned Judicial Magistrate that may be produced by the respondent and this will be done as early as possible having regard to the predicament in which the respondent is placed. We would expect even the learned Judicial Magistrate to expeditiously deal with such application when it is made. The order of the learned Single Judge will stand modified as above. The appeal is allowed accordingly with no order as to costs. No orders on the Civil Application in view of the above order.

[R.K. ABICHANDANI, J.]

[D.A. MEHTA, J.]

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